NOTE

TO: New Source Review (NSR) Reform Subcommittee
Members and Participating Federal Officials

As you are aware, at the January 1994 meeting of the NSR Reform Subcommittee, the group was informed that EPA was in the process of preparing a memorandum concerning the applicability of major NSR review to pollution control projects at existing sources. The intent of the memorandum is to provide interim guidance for permitting authorities on the approvability of these projects pending EPA's final action on a formal regulatory exclusion.
The New Source Review Section has prepared an initial staff draft memorandum on the issue. As the Agency more fully develops its final position on the issue, we would appreciate any comments or suggestions you have on the positions discussed in the draft.

Please note that the attached draft document has not been reviewed by EPA management. It is a "staff working draft" and does not, nor is it intended to, represent official EPA policy on the issues discussed therein.

If you have any questions, please feel free to contact me at (919) 541-5375 or Dennis Crumpler of my staff at (919) 541-0871. I would appreciate receiving your comments (in writing) **by March 4, 1994**.

Thank you again for your continued participation in, and support of, the NSR reform effort.

David Solomon
Chief
New Source Review Section

Attachment

cc: L. Wegman

February 9, 1994 **DRAFT**

MEMORANDUM

SUBJECT: Pollution Control Projects and New Source Review (NSR) Applicability

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)

TO: Addressees

This memorandum and attachment address issues involving the Environmental Protection Agency's (EPA's) new source review (NSR) rules and guidance concerning the applicability of major NSR review to pollution control projects at existing sources. The attachment provides a full discussion of the issues and this policy, including illustrative examples.

For several years, EPA has had a policy of excluding certain pollution control projects from the NSR requirements of Parts C and D of Title I of the Clean Air Act on a case-by-case basis. In 1992, EPA adopted an explicit pollution control project exclusion for electric utility generating units [see 57 FR 32314 (the "WEPCO rule" or the "WEPCO rulemaking")]. At the time, EPA indicated that it would, in a subsequent rulemaking, consider adopting a formal pollution control project exclusion for other source categories [see 57 FR 32332]. In the interim, EPA stated that individual pollution control projects involving source categories other than utilities could continue to be excluded from new source review by permitting authorities on a case-by-case basis [see 57 FR at 32320]. At this time, EPA expects to complete a rulemaking on extending the pollution control project exclusion by January 15, 1996. This memorandum and attachment provide interim guidance for permitting authorities on the approvability of these projects pending EPA's final action on a formal regulatory exclusion.

The attachment to this memorandum outlines in greater detail the type of projects that may qualify for an exclusion from NSR as a pollution control project, the safeguards that are to be applied, and the procedural steps that permitting authorities should follow in issuing an exclusion. Pollution control projects eligible for an exclusion include the installation of conventional or innovative emissions control equipment and projects undertaken to accommodate switching to an inherently less polluting fuel, such as natural gas. Under this guidance,

States may also exclude as pollution control projects some material and process changes (e.g., the switch to a less polluting coating, solvent, or refrigerant) and some other types of pollution prevention projects. However, the replacement of an existing emissions unit with a newer or different one (albeit more efficient and less polluting) or the reconstruction of an exisiting emissions unit would not qualify as a pollution control project.

It is EPA's experience that most bona fide pollution control projects are not subject to major NSR requirements for the simple reason that they result in a reduction in annual emissions at the source. In this way, most pollution control projects are outside major NSR coverage in accordance with the general rules for determining applicability of NSR to modifications at existing sources. However, some pollution control projects could result in significant potential or actual increases of some pollutants even though, on balance, they are environmentally beneficial. The EPA believes that such projects should be excluded from at least some of the NSR requirements that would otherwise apply. It is this subcategory of pollution control projects that can benefit from this guidance. However, in order to assure that air quality concerns with these types of projects are adequately addressed, there are two safeguards which should be followed by permitting authorities reviewing projects proposed for exclusion.

First, the permitting authority must determine that the proposed pollution control project, after consideration of the reduction in the targeted pollutant and any collateral effects, will be environmentally beneficial. At a minimum, this "environmental beneficial" standard requires that the permitting authority ensure that any adverse collateral environmental impacts from the project are identified, minimized, and where appropriate mitigated. For example, the source or the State must secure offsetting reductions in the case of a project which will result in a significant increase in a nonattainment pollutant. Second, nothing in this guidance authorizes any emissions increase that would cause or contribute to a violation of a National Ambient Air Quality Standard (NAAQS), PSD increment or air quality related value (AQRV) in a Class I area. Therefore, where a significant collateral increase in actual emissions is expected to result from a pollution control project, the permitting authority must also assess whether the increase could adversely affect any national ambient air quality standard, PSD increment or Class I AQRV.

In addition to these substantive safeguards, EPA is also specifying two procedural safeguards which are to be followed. First, since this interim exclusion is only available on a case-

by-case basis, sources seeking exclusion from major NSR requirements in accordance with this guidance must, prior to beginning construction, obtain a determination by the permitting authority that a proposed project qualifies as a pollution control project. Second, in considering that request, the permitting authority must afford the public an opportunity to review and comment on the source's application for this exclusion and the permitting authority's proposed disposition of the application. It is also important to note that any project excluded from major new source review as a pollution control project must still comply with all otherwise applicable requirements of the State Implementation Plan (SIP), including minor source permitting.

This guidance document does not supersede existing Federal or State regulations or approved SIPs. The policies set out in this memorandum and attachment are intended solely as guidance during the interim period until EPA takes action to revise its NSR rules and do not represent final Agency action. This policy statement is not ripe for judicial review. Moreover, it is not intended, nor can it be relied upon, to create any rights enforceable by any party in litigation with the United States. Agency officials may decide to follow the guidance provided in this memorandum, or to act at variance with the guidance, based on an analysis of specific circumstances. The EPA also may change this guidance at any time without public notice. The EPA presently intends to address further the matters discussed in this document in a forthcoming NSR rulemaking regarding proposed changes to the program resulting form the NSR Reform process and will take comment on these matters as part of that rulemaking.

As noted above, a full discussion of the types of projects eligible for an exclusion from NSR as a pollution control project as well as the safeguards such projects must meet to qualify for the exclusion are discussed in detail in the attachment to this memorandum. The Regional Offices should send this memorandum with the attachment to States within their jurisdiction. Questions concerning specific issues and cases should be directed to the appropriate EPA Regional Office. Regional Office staff may contact Mr. David Solomon, Chief, New Source Review Section, at (919) 541-5375, if they have any questions.

Attachment

Addressees
Director, Air, Pesticides and Toxics, Regions I, IV and VI
Director, Air and Waste Management, Region II
Director, Air, Radiation and Toxics Division, Region III

Director, Air and Radiation Division, Region V
Director, Air and Toxics Division, Regions VII, VIII, IX and X

cc: Air Branch Chief, Regions I-X

bcc: NSR Contacts
L. Wegman
K. Berry
S. Hitte
E. Lillis
D. Solomon
NSRS
Section file

Attachment

GUIDANCE ON EXCLUDING POLLUTION CONTROL PROJECTS FROM NEW SOURCE REVIEW (NSR)

I. Purpose

At this time, EPA expects to complete a rulemaking on an exclusion from major NSR for pollution control projects by January 15, 1996. In the interim, certain types of projects (involving source categories other than utilities) may qualify, on a case-by-case basis, for an exclusion from major NSR review as pollution control projects. Pending EPA's final action on a formal regulatory exclusion, this attachment provides interim guidance for permitting authorities on the types of projects that may be excluded on a case-by-case basis from NSR as pollution control projects, including the substantive and procedural safeguards which apply.

II. Background

The new source review (NSR) provisions of parts C [(Prevention of Significant Deterioration (PSD)] and Part D (Nonattainment Requirements) of title I of the Clean Air Act apply to both the construction of major new sources and the modification of existing major sources.[1] The modification provisions of the NSR programs in parts C and D are based on the broad definition of modification in section 111(a)(4) of the CAA. That section contemplates a two-step test for determining whether activities at an existing facility constitute a modification subject to new source requirements. In the first step, the reviewing authority determines whether a physical or operational change will occur. In the second step, the question is whether the physical or operational change will result in any increase in emissions of any pollutant.

---

[1] The EPA's regulations for nonattainment areas are set forth at 40 CFR 51.165, 52.24 and in part 51, Appendix S. The current PSD program is set forth in two sets of regulations. One set of regulations (40 CFR 52.21) is part of the Federal PSD permit program which applies as part of a Federal implementation plan for States that have not submitted a PSD program meeting the regulatory requirements of 40 CFR 51.166 [standards for PSD provisions in State implementation plans (SIP)]. Roughly two-thirds of the States are implementing their own PSD program pursuant to an EPA-approved SIP. In most of the remaining States, EPA has delegated the authority to implement the PSD program back to the individual States. Sections 52.21 and 51.166 have identical modification provisions.

The definition of physical or operational change in section 111(a)(4) could, standing alone, encompass the most mundane activities at an industrial facility (even the repair or replacement of a single leaky pipe, or a change in the way that pipe is utilized). However, EPA has recognized that Congress did not intend to make every activity at a source subject to new source requirements under parts C and D. As a result, EPA has by regulation limited the reach of the modification provisions of parts C and D to only major modifications. Under NSR, a "major modification" is generally a physical change or change in the method of operation of a major stationary source which would result in a significant net emissions increase in the emissions of any pollutant regulated under the Clean Air Act [see, e.g., 40 CFR 52.21(b)(2)(i)]. A "net emissions increase" is defined as the increase in "actual emissions" from the particular physical or operational change together with any other contemporaneous increases or decreases in actual emissions. See 40 CFR 52.21(b)(3)(i). In order to trigger major new source review, the net emissions increase must exceed specified "significance" levels. See 40 CFR 52.21(b)(2)(i) and 40 CFR 52.21(b)(23). EPA has also adopted common-sense exclusions from the "physical or operational change" component of the definition of "major modification." For example, EPA's regulations contain exclusions for routine maintenance, repair, and replacement; for increases in the hours of operation or in the production rate; and for certain types of fuel switches [see, e.g., 40 CFR 52.21(b)(2)(iii)].

In the 1992 "WEPCO" rulemaking (see 57 FR 32314), EPA amended its PSD and nonattainment regulations as they pertain to utilities by adding pollution control projects to the list of activities excluded from the definition of physical or operational changes. In taking that action, EPA stated it was largely formalizing an existing policy under which it had been excluding individual pollution control projects where it was found that the project "would be environmentally beneficial, taking into account ambient air quality." [57 FR at 32320; see also id., n. 15].

Because the WEPCO rulemaking was aimed at the utility industry which faced "massive industry-wide undertakings of pollution control projects" to comply with the acid rain provisions of the Clean Air Act (57 FR 32314), EPA limited the types of projects eligible for the exclusion to add-on controls and fuel switches at utilities. Thus, pollution control projects under the rule are defined as:

> "any activity or project undertaken at an existing electric utility steam generating

> unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:
>
> (i) The installation of conventional or innovative pollution control technology, including but not limited to[,] advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;
>
> (ii) An activity or project to accommodate switching to a fuel which is less polluting than the fuel in use prior to the activity or project . . .." [40 CFR 51.165(a)(1)(xxv) (emphasis added)].

The exclusion also applies to permanent clean coal technology demonstration and repowering projects. Id.

The EPA built two safeguards into the exclusion in the rulemaking. First, a project that meets the definition of pollution control project will not qualify for the exclusion where the "reviewing authority determines that (the proposed project) renders the unit less environmentally beneficial . . .." [see, e.g., 51.165(a)(1)(v)(C)(8)]. In the WEPCO rule, EPA did not provide any specific definition of the environmentally beneficial standard, although it did indicate that the pollution control project provision "provides for a case-by-case assessment of the pollution control project's net emissions and overall impact on the environment" [57 FR 32321]. Also, this provision is buttressed by a second safeguard that requires permitting authorities to evaluate the air quality impacts of pollution control projects that could -- through collateral emissions increases or changes in utilization patterns -- adversely impact local air quality [see 57 FR 32322]. This provision generally requires sources to model emissions increases associated with a pollution control project. Id. More fundamentally, it explicitly states that no pollution control project under any circumstances can cause or contribute to violation of a NAAQS, PSD increment, or air quality related value in a Class I area. Id.[2]

---

[2] The WEPCO rulemaking mentions "visibility limitation" rather than "air quality related values." However, the statutory protections in section 165(d) plainly are intended to protect against any "adverse impact on the air quality related values of such [Class I] lands (including visibility)." Because of this

As noted, the WEPCO rulemaking was explicitly limited to existing electric utility steam generating units [see, e.g., 40 CFR 51.165(a)(1)(v)(C)(8) and 51.165(a)(1)(xx)]. The EPA indicated it would consider adopting a formal NSR pollution control project exclusion for other source categories as part of a separate NSR rulemaking. The rulemaking in question is now expected to be finalized by January 15, 1996. On the other hand, the WEPCO rulemaking also noted that EPA's existing policy was, and would continue to be, to allow permitting authorities to exclude pollution control projects in other source categories on a case-by-case basis.

III. Case-By-Case Pollution Control Project Determinations

The following sections describe the type of projects that may be considered by permitting authorities for exclusion as pollution control projects and two safeguards that permitting authorities should use in evaluating qualifying projects -- the environmentally beneficial test and an air quality impact assessment requirement. To a large extent, these requirements are drawn from the WEPCO rulemaking. However, because the WEPCO rule was designed for a single source category, electric utilities, it cannot serve as a complete template for this guidance. Therefore, the following descriptions expand upon the WEPCO rule in the scope of qualifying projects and in the specific requirements inherent in the safeguards. These changes reflect the far more complicated task of identifying and facilitating pollution control projects at a variety of sources facing a myriad of Federal, State and local clean air requirements.

A. Types of Projects Covered

1. Add-On Controls and Fuel Switches

In the WEPCO rulemaking, EPA found that both add-on emissions control projects and fuel switches to less polluting fuels could be considered to be pollution control projects. For the purposes of today's guidance, EPA agrees that these types of projects are appropriately included as candidates for a case-by-case exclusion. These types of projects include:

---

provision, EPA believes that the proper focus of any air quality assessment needed for a pollution control project should be on visibility and any other relevant air quality related values for any Class I areas that may be affected by the facility.

- the installation of conventional and advanced flue gas desulfurization and sorbent injection for sulfur dioxide (SO_2);

- electrostatic precipitators, baghouses, high efficiency multiclones, and scrubbers for particulate;

- flue gas recirculation, low-NO_x burners, selective non-catalytic reduction and selective catalytic reduction for NO_x; and

- regenerative thermal oxidizers, condensers, thermal incinerators and carbon adsorbers for VOC and toxic air pollutants.

Projects undertaken to accommodate switching to an inherently less polluting fuel such as natural gas can also qualify as a pollution control project. Any activity that is necessary to accommodate switching to a inherently less polluting fuel is considered to be part of the pollution control project. In some instances, where the emissions unit's capability would otherwise be impaired as a result of the fuel switch, this may involve certain necessary changes to the pollution generating equipment (e.g., boiler) in order to maintain the normal operating capability of the unit at the time of the project. These types of accompanying changes can be considered part of the pollution control project but only to the extent they are undertaken to maintain the currently used capacity of the unit at the time the fuel switch is implemented.

2. Pollution Prevention Projects

It is EPA's policy to promote pollution prevention approaches and to remove regulatory barriers to sources seeking to develop and implement pollution prevention solutions to the extent allowed under the Clean Air Act. For this reason, besides add-on controls and fuel switches to less polluting fuels, permitting authorities may apply this exclusion to switches to inherently less polluting raw materials or processes and other types of "pollution prevention" projects.[3] For instance, many VOC users will be making switches to water-based or powder paint

---

[3]. For purposes of this guidance, pollution prevention projects are projects that through process changes or product recovery improvements eliminate or reduce the formation of air contaminants and other pollutants, leading to inherently lower "smokestack" emissions [see Pollution Prevention Act of 1990 section 6602(b) and section 6603(5)(A) and (B)]

application systems as a strategy for meeting reasonably available control technology (RACT) or switching to a non-toxic VOC to comply with maximum achievable control technology (MACT) requirements.

Accordingly, under today's guidance, permitting authorities may consider excluding raw material substitutions, process changes and other pollution prevention strategies where the pollution control aspects of the project are clearly evident and will result in substantial emissions reductions per unit of output for one or more pollutants. In judging whether a project can be considered a pollution prevention project, permitting authorities may also consider whether a project is being undertaken to bring a source into compliance with a MACT, RACT or other Clean Air Act requirement.

Although EPA is supportive of pollution control and prevention projects and strategies, special care must be taken in classifying projects as a pollution control project and in evaluating projects under a pollution control project exclusion. Virtually every modernization or upgrade project at an existing industrial facility which reduces inputs and lowers unit costs, has the concurrent effect of lowering emissions rate per unit of fuel, raw material or output. Nevertheless, it is clear that these major capital investments in industrial equipment are the very types of projects that Congress intended to address with the new source modification provisions. [see Wisconsin Electric Power Co. v. Reilly, 893 F.2d 901, ____ (7th Cir. 1990) (rejecting contention that utility life extension project was not a physical or operational change); Puerto Rican Cement Co., Inc. v. EPA, 889 F.2d 292, ___ (1st Cir. 1989) (NSR applies to modernization project that decreases emissions per unit of output, but increases economic efficiency such that utilization may increase and result in net increase in actual emissions)]. Likewise, the replacement of an existing emissions unit with a newer or different one (albeit more efficient and less polluting) or the reconstrcution of an exisitng emissions unit would not qualify as a pollution control project. Adopting a policy that automaticly excludes from NSR any project that, while lowering operating costs or improving performance, coincidently lowers a unit's emissions rate, would exclude almost all modifications to existing emissions units, including those that are likely to increase utilization and therefore result in overall higher levels of emissions.

In order to limit this exclusion only to those subset of pollution prevention projects that will in fact lower annual emissions at a source, permitting authorities should not exclude as pollution control projects any pollution prevention project

that can reasonably be expected to increase the utilization of the affected emissions unit(s). For example projects which significantly increase capacity, decrease production costs, or improve product marketability can be expected to affect utilization patterns. With these changes, the environment may or may not see a reduction in overall source emissions; it all depends on the source's operations after the change which EPA does not believe can be predicted with any certainty.[4] This is not to say that these types of projects are necessarily subject to federal new source review requirments, only that they should not be excluded as pollution control projects.

[4] This is in marked contrast to the addition of pollution control equipment which typically does not, in EPA's experience, result in any increase in the source's utilization of the emission unit in question. In the few instances where this presumption is not true, the safeguards discussed in the next section should provide adequate environmental protections.

B. Safeguards

1. Environmentally Beneficial Test

Even projects that meet the definition of a pollution control project outlined above may cause collateral emissions increases or have other adverse impacts. For instance, a large VOC incinerator, while substantially eliminating VOC emissions, may generate sizeable NOx emissions well in excess of significance levels. To protect against these sorts of problems, EPA in the WEPCO rule required an assessment of the overall environmental impact of the project and the specific impact, if any, on air quality. Again, EPA believes that this safeguard is appropriate here as well.

In making a determination as to whether a project is environmentally beneficial, the permitting authority must consider the overall emissions before and after the project, as well as any other relevant environmental factors. While it is not possible to list all factors which should be considered in any particular case, several concerns can be noted.

First, pollution control projects which result in increases in non-targeted pollutants should be reviewed to determine that the collateral increases have been minimized and will not result in environmental harm. This could mean, for instance, that a low-NOx burner project is subject to temperature and other appropriate combustion standards so that CO emissions are kept to a minimum.

Second, nothing in this guidance countenances a pollution control project which causes or contributes to a NAAQS violation [see 57 FR 32322]. Thus, in the case of nonattainment areas, the State or the source must provide offsetting emissions reductions for any significant increase in a nonattainment pollutant from the pollution control project. In other words, if a significant collateral increase of a nonattainment pollutant resulting from a pollution control project is not offset (on at least a one-to-one basis) then the pollution control project would not qualify as environmentally beneficial.

Finally, a project which would result in an unacceptable increased risk due to the release of air toxics should not be considered environmentally beneficial.

2. Additional Air Quality Impacts Assessments

(a) General

Nothing in the Clean Air Act or EPA's implementing regulations would allow a permitting authority to approve a pollution control project which results in an emissions increase that will cause or contribute to a violation of a NAAQS, PSD increment, or adversely affect visibility or other air quality related value (AQRV) in a Class I area [see CAA sections 110(a)(2)(c), 165, 169A(b), 173]. This being the case, this guidance is not intended to allow any project to violate any of these air quality standards.

As discussed above, it is possible that a pollution control project -- either through increases in emissions rates of collateral pollutants or through changes in utilization -- will cause an increase in actual emissions, which in turn could cause or contribute to the violation of a NAAQS, increment or air quality related value (AQRV). For this reason, the WEPCO rule required a source to analyze air quality impacts whenever 1) the proposed change would result in a significant net increase in actual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis and 2) the permitting authority has reason to believe that such an increase would cause or contribute to a violation of a NAAQS, increment or visibility limitation.[5] If this analysis indicates that the increase in emissions will cause or contribute to a violation of any ambient standard, PSD increment or AQRV, the pollution control exclusion does not apply.

EPA believes taht this safeguard should be applied here as well. Thus, where a pollution control project will result in a significant increase in emissions and that increased level has not been previously analyzed and raises the possibility of a NAAQS, increment or AQRV violation, the permitting authority should require the source to provide an air quality analysis sufficient to demonstrate the impact of the project. The EPA will not necessarily require that the increase be modeled (as is the case with a significant net emissions increase under the WEPCO rule), but the source must provide sufficient data to satisfy the permitting authority that the new levels of emissions will not cause a NAAQS or increment violation and will not adversely impact the AQRV's of nearby Class I areas.

---

[5] Generally, unless the reviewing authority has specifically analyzed the air quality impacts of similar changes to the emissions profile of the source, the permitting authority should require a source to provide data on the air quality impacts of any pollution control project that will result in a significant emissions increase.

(b) Determination of Increase in Emissions

The question of whether a proposed project will result in an emissions increase is both complicated and contentious. It is a question that is currently being debated by the New Source Review Reform Subcommittee of the Clean Air Act Advisory Committee and is expected to be revisited by EPA in the same rulemaking that will consider adopting a pollution control project exclusion. Because of this, in the interim EPA is adopting a simplified approach to determining whether a pollution control project will result in increased emissions.

The approach is premised on the fact that EPA does not expect the vast majority of these projects to change established utilization patterns at the source. As discussed in the previous section, it is EPA's experience that add-on controls do not impact utilization and pollution prevention projects that could have this affect may not be excluded as pollution prevention projects under this guidance. Therefore, in most cases it will be very easy to calculate the emissions after the change: it is the product of the new emissions rate times the existing utilization rate. In the case of a pollution control project that collaterally increases a non-targeted pollutant, the actual increase (calculated using the new emissions rate and current utilization pattern) would need to be analyzed to determine its air quality impact.

The permitting authority may presume that projects meeting the definition outlined in section II(A) will not change utilization patterns. However, the permitting authority is to reject this presumption where there is evidence that the project could result in debottlenecking, loadshifting to take advantage of the control equipment or cause other deviations from the past pattern of use of the emissions unit at issue.

In those cases where the pollution control project is reasonably likely to lead to an increased utilization, the permitting authority should require the source to provide for the record a creditable demonstration of the level of utilization that is projected to be maintained following the change. Where the project will increase utilization, the associated emissions increases are calculated based on a reasonable estimate of the source's actual operational level following the pollution control project.

III. Procedural Safeguards

Because this pollution control project exclusion must be granted on a case-by-case basis, the exclusion cannot be self-

executing. Instead, sources must receive individual approval for projects from the permitting authority pursuant to a minor new source review permitting process, State non-applicability determination or similar process. (Nothing in this guidance should be seen as voiding any applicable minor source preconstruction review requirement in any SIP that has been approved pursuant to the requirements of section 110(a)(2)(C) and 40 CFR 51.160-164.) This process should also require that the application for the exclusion and the permitting agency's proposed decision thereon, must be subject to public notice and the opportunity for public and EPA written comment.

IV. Illustrative Examples

The following examples illustrate some of the guiding principles and safeguards discussed above in reviewing proposed pollution control projects for an NSR exclusion.

Example 1

PROJECT DESCRIPTION: A chemical manufacturing facility in an attainment area for all pollutants is proposing to install a regenerative thermal oxidizer to reduce VOC emissions (including emissions of some hazardous pollutants) at the plant by about 3000 tons per year. The emissions reductions from the RTO are currently voluntary, but may be necessary some time in the future for title III MACT compliance. Although the RTO has been designed to minimize NOx emissions, it will produce 200 tons per year of new NOx emissions. Aside from the NOx increase there are no other environmental impacts known to be associated with the project.

EVALUATION: As a qualifying add-on control device, the project may be considered a pollution control project and may be considered for an exclusion. The permitting agency should verify that the NOx increase has been minimized to the extent practicable, 2) confirm (through modeling or other appropriate means) that the actual significant increase in NOx emissions will not violate the applicable National Ambient Air Quality Standard[6], PSD increment, or adversely impact any air quality-related value and 3) apply all otherwise applicable SIP and requisite minor source permitting requirements, including opportunity for public notice and comment requirements.

---

[6] If the source had been located in a area in which nonattainment review applied to NOx emissions increases, 200 tons of NOx offsets credits would be required to allow for an exclusion.

Example 2

PROJECT DESCRIPTION: A source proposes to replace an existing coal fired boiler with a gas-fired turbine as part of a cogeneration project. The new turbine is an exact replacement for the energy needs supplied by the existing boiler and will emit less of all pollutants on an hourly basis than the boiler did.

EVALUATION: The replacement of an existing emissions unit with a new unit (albeit more efficient and less polluting) does not qualify as a PCP. The company can, however, use any otherwise applicable netting credits from the removal of the existing boiler to net the new unit out of review.

Example 3

PROJECT DESCRIPTION: A source plans to physically renovate and upgrade an existing process line by making certain changes to the existing process, including emissions units. The resultant changes will increase the efficiency of the line and expand its ability to manufacture and market new or improved products. The renovated line will be less polluting on a per product basis than the original configuration.

EVALUATION: The change is not a pollution control project. The resultant decrease in the per product emissions rate (or factor) is incidental to the project and not the primary objective. Rather it is a physical change or change in the method of operation for the purpose of increasing efficiency and productivity.

Example 4

PROJECT DESCRIPTION: In response to the phaseout of CFCs under title VI of the Clean Air Act, a source is proposing to substitute a less ozone-depleting substances (e.g. HCFC-141b) for one that has a greater ozone depleting potential (e.g., CFC-11). No other changes are proposed.

EVALUATION: The project may be considered a pollution control project and may be considered for an exclusion. The permitting agency should verify that 1) emissions of HCFC-141b after the proposed switch will cause less stratospheric ozone depletion than current annual emissions of CFC-11, 2) the proposed switch will not change utilization patterns or increase emissions of any other pollutant which would impact a National Ambient Air Quality Standard, PSD increment, or air quality-related value and that the proposed switch will not cause any

cross-media harm, including any unacceptable increased risk associated with toxic air pollutants and 3) apply all otherwise SIP and requisite minor source permitting requirements, including opportunity for public notice and comment requirements.